United Nations S/2013/263

Security Council

Distr.: General
3 May 2013
English
Original: French

Letter dated 3 May 2013 from the Secretary-General addressed to the President of the Security Council

Pursuant to Security Council resolution 1031 (1995), I have the honour to transmit herewith the forty-third report on the implementation of the Peace Agreement on Bosnia and Herzegovina, covering the period from 27 October 2012 to 20 April 2013, which I received from Mr. Valentin Inzko, High Representative for Bosnia and Herzegovina (see annex).

I should be grateful if you would bring the report to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

13-31846 (E) 070513 080513

Please recycle

Annex

Letter dated 30 April 2013 from the High Representative for Bosnia and Herzegovina addressed to the Secretary-General

[Original: English]

Pursuant to Security Council resolution 1031 (1995), by which the Council requested the Secretary-General to submit to it reports from the High Representative in accordance with annex 10 to the General Framework Agreement for Peace in Bosnia and Herzegovina and the Conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I herewith present to you the forty-third report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina. I ask that this report be distributed to the members of the Security Council for their consideration.

This is my ninth report to the Security Council since assuming the post of High Representative for Bosnia and Herzegovina and European Union Special Representative on 26 March 2009. The present report covers the period from 27 October 2012 to 20 April 2013.

Should you or any Council member require any information beyond what is provided in the attached report or have any questions regarding its contents, I should be pleased to provide you with it.

(*Signed*) Valentin **Inzko**

Forty-third report of the High Representative for Bosnia and Herzegovina

27 October 2012-20 April 2013

[Original: English]

Summary

This report covers the period from 27 October 2012 to 20 April 2013. The previous report detailed how, following an encouraging start to 2012, with politicians engaging in dialogue and reaching agreement on a Council of Ministers, budget and key European Union legislation, progress had stalled and reverted to the prevailing negative trends of the previous six years. Unfortunately this dynamic has continued during the current reporting period, with little real progress achieved by the leadership of Bosnia and Herzegovina towards the country's self-proclaimed goals of European and Euro-Atlantic integration.[a] At the same time, the political crisis in the Federation and direct challenges to the Dayton Peace Agreement — including to the sovereignty and territorial integrity of Bosnia and Herzegovina — continued. These combined factors, against the backdrop of real economic and social hardship for large parts of the population, have caused understandable concern within the international community.

Not all the news has been bad, however. The state-level Council of Ministers, which underwent a party reshuffle in November, has met regularly. The state budget for 2013 was adopted on time, the first time in two years. In general, however, the state-level coalition has so far been unable to deliver much-needed progress on the legislative front.

Developments at the state level have been overshadowed by a protracted power struggle at the Federation and cantonal levels that began in June 2012, as described in my previous report. In recent months this has led to near gridlock of many institutions at these levels and contributed to a delay in disbursing much-needed international financial assistance for the country as a whole. Moreover, in their haste to restructure authorities at the Federation level, representatives of some parties have at times ignored or violated the applicable rules and procedures governing the work and decision-making of relevant bodies. By contrast, the institutions of the Republika Srpska have functioned more efficiently than those of the Federation during the reporting period.

Of more fundamental concern, however, is that some representatives of the Republika Srpska continued the policy of the last several years of open and direct challenges to the fundamentals of the Peace Agreement and the territorial integrity of Bosnia and Herzegovina. In my last report I signalled that the issue of growing advocacy for the dissolution of Bosnia and Herzegovina by Republika Srpska officials deserves the special attention of the international community. Statements made and actions taken during the reporting period have in my view represented a continuation of this worrisome policy. They continue to raise doubts about the commitment of the current Republika Srpska leadership to the most fundamental aspect of Dayton — the constitutional order of Bosnia and Herzegovina as set forth in annex 4 to the General Framework Agreement for Peace, including in particular the sovereignty and territorial integrity of Bosnia and Herzegovina.

Citizens in the town of Mostar have still been unable to vote to elect local authorities, as the rest of the country did on 7 October 2012, owing to the ongoing failure of politicians to implement a 2010 ruling of the Constitutional Court of Bosnia and Herzegovina on the city's electoral system. Their requirement to do so emanates directly from annex 4 to the General Framework Agreement, where it is explicitly stated that rulings of the state Constitutional Court are final and binding. As previously reported, my Office is facilitating discussions between political parties to assist in implementing the Court's decision and enable elections to be held in Mostar as soon as possible. Despite gestures towards compromise by the majority of the parties participating in this facilitation process, the continuing inflexibility of two of the largest parties in Mostar — the Croatian Democratic Union of Bosnia and Herzegovina and the Party for Democratic Action — has so far prevented a resolution of this Dayton violation.

During this reporting period, the authorities in Bosnia and Herzegovina have done little to implement the outstanding requirements of the five objectives and two conditions necessary for the closure of the Office of the High Representative.[b]

On the economic front, despite some notable exceptions of certain private companies, the country is faced with a deteriorating fiscal situation, poor growth prospects, high unemployment and accompanying social problems.

Through their continued presence, the European Union and NATO military missions in Bosnia and Herzegovina have both continued to reassure citizens that the country remains safe and secure despite the difficult political situation. Both in my view need to remain as they continue to fulfil a vital function and their presence is essential to support ongoing international community efforts and my ability to fulfil my Dayton mandate.

---

[a] Most recently, local leaders recorded a damaging failure to meet the latest deadline set by the European Union for a political agreement to implement the Sejdić-Finci ruling of the European Court of Human Rights. This latest setback by the country's leaders in addressing the requirements of European and Euro-Atlantic integration again contrasts with other countries of the region that have made notable progress in this regard.

[b] At its meeting on 26 and 27 February 2008, the Steering Board of the Peace Implementation Council set five objectives and two conditions for closure of the Office of the High Representative. The five objectives were an acceptable and sustainable resolution of the issue of apportionment of property between state and other levels of government; acceptable and sustainable resolution of defence property; completion of the Brcko Final Award; fiscal sustainability; and entrenchment of the rule of law. The two conditions were the signing of the Stabilization and Association Agreement and "a positive assessment of the situation in Bosnia and Herzegovina by the Steering Board of the Peace Implementation Council based on full compliance with the Dayton Peace Agreement".

I. Introduction

1. This is my ninth report to the Secretary-General since assuming the post of High Representative for Bosnia and Herzegovina. It provides a narrative description of progress made towards attaining the goals outlined in previous reports, registers factual developments, logs relevant citations relating to the reporting period, and provides my assessment of the implementation of key areas falling under my mandate. I have focused my efforts on facilitating progress in these areas, in line with my primary responsibility to uphold the civilian aspects of the General Framework Agreement for Peace, while also encouraging progress on the five objectives and two conditions for the closure of the Office of the High Representative and working to preserve steps that have previously been taken to implement the General Framework Agreement.

2. Adherence to the rule of law is a central component of the General Framework Agreement and is essential for reconciliation and rebuilding a stable post-conflict society. For these reasons it must remain one of the guiding principles of the international community's engagement in Bosnia and Herzegovina. I have reported in this and previous reports of numerous cases in which political leaders, parties, and institutions sidestep, ignore or in some cases directly violate requirements set out in constitutions and laws for the sake of political expediency. In addition, challenges to state-level institutions established to safeguard the rule of law have continued and the non-enforcement of decisions of the Bosnia and Herzegovina Constitutional Court has become a pattern. Because I am convinced that observance of the rule of law is a prerequisite for long-term peace and stability, I have recently reported in extensive detail to the Steering Board of the Peace Implementation Council on this worrisome trend in this field.

3. While I am focusing my energies on executing my mandate as defined under annex 10 to the General Framework Agreement and relevant resolutions of the United Nations Security Council, my Office fully supports the efforts of the European Union and NATO to help Bosnia and Herzegovina move along the path towards closer integration with the European Union and NATO. My Office and that of the European Union Special Representative work closely to create synergies wherever possible, in accordance with our respective mandates.

II. Political update

A. General political environment

4. The reporting period was dominated by one major ongoing political crisis, and one long-running negative trend. The ongoing political crisis has its origin in the politically legitimate attempt of the Social Democratic Party (SDP) — with the support of the Party for a Better Future of Bosnia and Herzegovina (SBB) and the two Croatian Democratic Union parties (HDZ Bosnia and Herzegovina and HDZ 1990) — to expel the Party for Democratic Action (SDA) and its allies from governing coalitions at the Federation and cantonal levels, and the refusal of the latter to step aside. This resulted in a constitutional crisis and gridlock in the Federation that continues to this day. The continuing negative trend was the ongoing campaign by some representatives of the Republika Srpska to predict and advocate for the dissolution of Bosnia and Herzegovina and the independence of the Republika Srpska. This has been accompanied by challenges to state judicial institutions and

other responsibilities of the state provided for under the Constitution of Bosnia and Herzegovina, as set forth in annex 4 to the General Framework Agreement. In this respect, the decree adopted by the Republika Srpska Government on 2 April, which seeks to unilaterally regulate citizen identification numbers, is of genuine concern, as this is a matter otherwise regulated by state-level legislation. [1]

5. As previously reported, SDP and its coalition partners at the state level achieved their goal of removing the SDA ministers from the state-level government late in October 2012. SDP, SBB and the two HDZ parties have also managed to reconstruct authorities in four cantons and a few municipalities. However, these parties have not yet managed to reconstruct the Federation-level government, despite having a significant majority in the Federation Parliament, which voted no confidence in the government in both chambers of the Parliament. The SDA-dominated Bosniak caucus has blocked implementation of the no-confidence measure by invoking vital national interest in the House of Peoples of the Parliament. The vital national interest case cannot be ruled on, however, owing to the failure to appoint missing judges to the Federation Constitutional Court and its Vital National Interest Panel.

6. This dispute has predictably had an effect on the Federation government which has become divided into two camps: one which includes the Prime Minister and seven Ministers from SDP which is supported by the new parliamentary majority, and a second camp consisting of SDA and its partners, who currently hold a majority of nine ministers in the government. As the two blocks fought for dominance, the work of the Federation government came to a standstill in March. At this point, I engaged both camps to remind them of the necessity to ensure the functioning of the government, while also bringing together competent officials in an attempt to break the deadlock on the appointment of the missing judges to the Federation Constitutional Court. The Ambassadors of the Peace Implementation Council Steering Board shared my concern about the situation and also made their views clear through two public statements.

7. These disturbing developments in the Federation have deflected attention from the continuing statements calling into question the General Framework Agreement that have been heard from the most senior politicians and party officials in the Republika Srpska, as well as state-level officials from the Republika Srpska. Dominating this rhetoric are open predictions and advocacy of state dissolution and Republika Srpska independence, as well as statements seeking to link the future of the Republika Srpska to developments in other European States in 2014. This issue is covered in greater detail in section II.D below, entitled "Challenges to the General Framework Agreement for Peace".

8. In the Federation of Bosnia and Herzegovina, the two leading Croat parties, HDZ Bosnia and Herzegovina and HDZ 1990, continue to call for the creation of a Croat-majority federal territorial unit. On 6 April 2013, these parties used the platform of the Congress of the Croat National Assembly (an informal grouping of Croat parties) to repeat such calls and to announce mechanisms for compelling elected Croat representatives to implement the decisions of this grouping of parties.

[1] Bosnia and Herzegovina Constitutional Court Ruling Case No. U 3/11 of 27 May 2011 concluded inter alia that "the challenged law regulates issues pertaining to the personal identification number of citizens, therefore, issues which fall under jurisdiction of Bosnia and Herzegovina. The resulting conclusion is that the challenged law does not regulate the issues which fall under jurisdiction of the Entities' constitutions, such as the territorial organization of the Entities and neither does it determine the names of towns and municipalities in the Entities".

9. On 6 November 2012, the Central Election Commission confirmed the results of the municipal elections held on 7 October 2012. In addition to problems regarding Srebrenica and Mostar that will be mentioned separately in this report, problems arose in a limited number of municipalities with regard to implementing constitutional and legal provisions guaranteeing representation of constituent peoples and others in municipal authorities.

B. Decisions of the High Representative during the reporting period

10. During the reporting period, I generally refrained from employing my executive powers in line with the policy of the Peace Implementation Council Steering Board of emphasizing "local ownership" over international decision-making. I used my executive powers on only one occasion, to lift a ban on an individual previously removed from public office by one of my predecessors.

C. Five objectives and two conditions for closure of the Office of the High Representative

Progress on objectives

11. During the reporting period the Bosnia and Herzegovina authorities did not make concrete progress on the outstanding objectives set by the Steering Board of the Peace Implementation Council as prerequisites for the closure of the Office of the High Representative.

State and defence property

12. As previously reported, in July 2012, the Bosnia and Herzegovina Constitutional Court held that the Law on the Status of State Property Situated in the Territory of Republika Srpska and under the Disposal Ban (Republika Srpska State Property Law), which transfers to the Republika Srpska property over which Bosnia and Herzegovina is now the title owner, falls outside the competence of the entity legislature and is therefore unconstitutional. Pursuant to the Court's decision, the Republika Srpska State Property Law ceased to be in force on 19 September 2012. In this far-reaching decision, the Court also held that the competence to regulate such property falls within the exclusive responsibility of the Bosnia and Herzegovina Parliamentary Assembly. The decision of the Court has implications for the political leaders' agreement of 9 March 2012 on these issues, which must now be re-evaluated to ensure that its implementation is consistent with the Bosnia and Herzegovina Constitution, as interpreted by the decision of the Court.

13. On 7 February, the Secretary-General of NATO, Anders Fogh Rasmussen, held a working visit with senior leaders in Bosnia and Herzegovina, emphasizing NATO's continued support for the NATO integration efforts of Bosnia and Herzegovina, but also the expectation of NATO allies that Bosnia and Herzegovina would undertake the reforms necessary for Euro-Atlantic integration. The party leaders expressed their commitment to the agreement of 9 March 2012 on defence and state property and committed to implement the defence property element of the agreement quickly and to create a detailed road map for the resolution of state property. Late in March, the Bosnia and Herzegovina Minister of Defence signalled his intention to engage directly on the issue with the Council of Ministers working group and with the Bosnia and Herzegovina Public Attorney.

14. On 16 February, the six political party leaders of the state-level governing coalition met and reaffirmed their commitment to the 9 March 2012 framework, yet failed to explain how the agreement would be implemented in line with the decision of the Bosnia and Herzegovina Constitutional Court. On 18 February, the Bosnia and Herzegovina Council of Ministers established a Working Group for Resolving State and Defence Property Issues (Ministerial Working Group) and appointed the Minister of Justice, the Minister of Civil Affairs and the Minister of Transport and Communications as members to propose "a method of resolving the issues of defence and state property in line with previously established principles for distribution of the state and defence property". The Working Group met twice, but has not made public any conclusions. The State Property Commission, which the Council of Ministers previously tasked with proposing solutions on state and defence property, has met only once since the formation of the Ministerial Working Group and concluded that it lacked sufficient direction from the Council of Ministers on its role in relation to the new working group.

Brcko District

15. Following the closure on 31 August 2012 of the Brcko Office and issuing of a Supervisory Order Regulating the Status of Legal Acts, the Supervisor no longer intervenes in the day-to-day affairs of the District, although he has retained full authority to resume — at his own discretion — the exercise of his authorities should circumstances warrant.

16. Political parties in the Brcko District formed a government without outside intervention late in 2012. The economic situation, however, continues to deteriorate while systemic corruption and nepotism remain serious problems. In a significant development, the previous Mayor was indicted on corruption charges on 12 March 2013. The District Assembly adopted a 2013 budget on 28 March 2013.

D. Challenges to the General Framework Agreement for Peace

17. The General Framework Agreement for Peace and its implementation have ensured peace and security in Bosnia and Herzegovina over the past 17 years, but attempts at undermining the Peace Agreement's foundations and rolling back reforms undertaken to implement it require the international community's serious attention.

Challenges to the sovereignty and territorial integrity of Bosnia and Herzegovina

18. The reporting period saw continued provocative rhetoric from some Republika Srpska officials at the highest levels that disputed and questioned the existence of the state of Bosnia and Herzegovina, predicted and advocated for the state's dissolution, and challenged the functionality of the state and its responsibilities under the Constitution of Bosnia and Herzegovina. The President of the Republika Srpska continues to be the most frequent and vocal — although certainly not the sole — exponent of state dissolution. His statements during the reporting period

have touched on self-determination as well as seeking to make links between the Republika Srpska and developments elsewhere in Europe.[2]

19. In April, the Republika Srpska President said that Bosnia and Herzegovina "has absolutely no possibility to survive". He called Bosnia and Herzegovina "a premature baby that was created and thrown on the territory of the Balkans to cover up earlier decisions about illegal recognition ... In any case, it is an inevitable process. Bosnia and Herzegovina will not survive! When will it fall apart? We shall see ... That means that, hypothetically speaking, inasmuch as the demolishment of the Dayton Agreement continues, the Republika Srpska can peacefully walk into Parliament and take a decision on its independence or say let's have a binding referendum. I am convinced the Republika Srpska will one day measure its strength, its moment, its capacity, and will go for a referendum and be independent".[3]

20. Despite the absence of any provision anywhere in the General Framework Agreement permitting or foreseeing dissolution or self-determination, the Republika Srpska public campaign for dissolution has also sought to emphasize the alleged right of the Republika Srpska to self-determination. The Republika Srpska President recently visited Belgrade, where he addressed Serbia's Parliament and sought to advocate "self-determination" for Serbs as a "constituent people".[4] He also noted in February that "[t]he right of the Republika Srpska to self-determination is a right from the United Nations Convention ... I keep no option closed."[5] He repeatedly threatened to hold an independence referendum,[6] asserted that the Republika Srpska wants to

---

[2] "Ten years from now on, the Republika Srpska will be mighty and strong, beloved also here in Serbia, more than it is now. And I expect it to be on its own." Milorad Dodik, *TV Prva*, 30 November 2012; "Bosnia and Herzegovina is not in the interest of the Serb people and it is possible there will not be a Bosnia and Herzegovina in 10 to 15 years. Serbs have never truly accepted Bosnia and Herzegovina. After the breakup of Yugoslavia, Bosnia and Herzegovina is not the political or historical interest of the Serb people." Milorad Dodik, *Tanjug*, 8 January 2013; "Today we are waging the same battle we had already waged a hundred years ago ... I think that the ultimate goal of this new plan should be the integration of the Serb people in the region." Milorad Dodik, *Nedeljnik*, 13 February 2013; "Recognition of Kosovo opens up space not only for us; look, I think you are following what is happening in Catalonia, in Scotland and in other parts of Europe and that this could be stimulating for many processes." Milorad Dodik, *ATV*, 4 April 2013.

[3] Milorad Dodik, *ATV*, 4 April 2013. During an interview with *RTRS's Pressing* on 15 April the Republika Srpska President made similar remarks: "Bosnia and Herzegovina is nowhere. A sufferer on its last breath, into whom the international community is still throwing capsules of oxygen claiming that it has to survive."

[4] "Is everything finished, has perhaps the time come for a reaffirmation of the right of self-determination? How is it that some others have the right to self-determination and we don't? Has the time perhaps come for the reaffirmation of the right of self-determination? Are Serbs a constituent people? They are. Why do they not have the right to self-determination? That is for a time which is coming." Milorad Dodik, address to the Parliament of the Republic of Serbia in Belgrade, 14 February 2013.

[5] Milorad Dodik, interview with *Face TV*, 16 February 2013.

[6] "A referendum for independence of the Republika Srpska is always an option. We never gave up the referendum idea and I can assure that it is always an option. We just want to give a chance to an agreement if it is possible but if not there will be nothing left to do." Milorad Dodik, *BNTV*, 8 November 2012; "Mentioning the possibility of a referendum was a forbidden topic some time ago. Now we have organized the legal procedure for that and I am not excluding the possibility of a referendum in the Republika Srpska in future, and to vote in the way that is done in any other democratic country ... If Bosnia and Herzegovina keeps on ignoring the status of the Republika Srpska and keeps creating further problems, then a referendum would be an option." Milorad Dodik, *Al Jazeera*, 7 January 2013.

participate in European Union integration only insofar as it reinforces the entity,[7] and has stated that the Republika Srpska will "proclaim confederation" and eventually secede.[8]

21. I am also concerned by continued assertions from senior Republika Srpska leaders — contrary to the Constitution of Bosnia and Herzegovina — that the entities are states. The Serb member of the Bosnia and Herzegovina State Presidency stated that "the Dayton Peace Agreement formed two little countries".[9] The Republika Srpska President has asserted that the Republika Srpska is "an independent state",[10] and proclaimed "in the end, Bosnia and Herzegovina is not a state, but a state union".[11] The Republika Srpska Vice-President stated that "The stance of the West that it will not allow creating of a new Republika Srpska in Kosovo means admitting that the Republika Srpska is a state".[12] Numerous similar statements were made during the reporting period by Republika Srpska officials and officials of the ruling party in the Republika Srpska, the Alliance of Independent Social Democrats (SNSD).[13] In addition, the President of Serbia has referred to the Republika Srpska as a "state",[14] although he later corrected his statement in a highly publicized and widely acclaimed interview where he also commendably stated: "I'm bowing down.

---

[7] "Euro-integration will be used to strengthen the autonomy and status of the Republika Srpska and to bring the entity to a higher level of independence". Milorad Dodik, *Vecernje Novosti*, 9 January 2013; "The Republika Srpska is dedicated to European integration but we want to strengthen our position through that process, not weaken it." Milorad Dodik, *Dnevni avaz*, 4 January 2013.

[8] "The Republika Srpska must proclaim itself as a confederate unit. Confederation is when a self-standing state joins with another one, and can dissolve at will. It must be well prepared, and allies found for it. ... Eventually the Republika Srpska will have no other option but to secede from Bosnia and Herzegovina. A civic state cannot be created by force." Milorad Dodik, *Blic*, 29 November 2012.

[9] Nebojša Radmanović, *RTRS*, 21 November 2012.

[10] "The initial idea was that the Republika Srpska should be independent. Namely, the Republika Srpska used to be independent for several years. Following the Dayton Agreement, the Republika Srpska joined Bosnia and Herzegovina with the capacity of a sovereign state." Milorad Dodik, *FTV*, 9 January 2013.

[11] Milorad Dodik, interview with *RTRS*, 17 October 2012.

[12] Emil Vlajki, *Nezavisne novine*, 15 March 2013.

[13] "My opinion and the opinion of SNSD is that the Republika Srpska is a state, whether Mesić and those who think like him like it or not. I do not want to refer to the Republika Srpska as an entity, I refer to the Republika Srpska as a state." Radovan Višković, *TV1*, 17 March 2013; "Bosnia and Herzegovina does not present a political and historic interest of Serbs, and it is possible that Bosnia and Herzegovina will not even exist within 10 or 15 years, because there is no will of two constituent peoples for that." Milorad Dodik, *Vecernje Novosti*, 9 January 2013; "I deem that the Republika Srpska is a state, it has no international capacity, but it is a state in line with everything that definition of state means. The Constitution of Bosnia and Herzegovina was created on the basis of the Constitution of the United States of America, which is treating America as a state made of states. The Republika Srpska owns everything that any of the United States states has." Milorad Dodik, *Vecernje Novosti*, 9 January 2013; "The Republika Srpska will definitely turn to independence in case of a failure to regain the competencies it had in early post-war years. The Republika Srpska and Bosnia and Herzegovina should share competencies in accordance with the original Dayton Peace Agreement and the Republika Srpska will surely seek independence in case this does not happen." Milorad Dodik, *BNTV*, 9 January 2013; "What else would the Republika Srpska be, but a state?" Milorad Dodik, *TV Prva*, 30 November 2012.

[14] "We have met today as the most responsible people of the two Serbian states ... We are also working on the economic development of both states." Tomislav Nikolić, press conference in Belgrade, 7 April 2013.

And I seek forgiveness for Serbia for the crime that was committed in Srebrenica ... I apologize for all the crimes that were committed by any individual of our people in the name of our state and our people".

Challenges to the competencies of Bosnia and Herzegovina institutions

22. The President of the Republika Srpska has also continued his verbal attacks against key state institutions that were established to exercise responsibilities of the state under the Constitution of Bosnia and Herzegovina and to safeguard the rule of law, sovereignty, territorial integrity and constitutional order of Bosnia and Herzegovina (Constitutional Court, State Court and Prosecutor's Office, High Judicial and Prosecutorial Council, and Central Election Commission).[15] These statements have served to undermine these vital institutions at a time when they need to be supported to become ever more effective, not least to fight corruption, which is a major problem in the country. Not surprisingly this is also placing tremendous political pressure on the employees of these institutions.

23. An issue that exposed the shortcomings of the political process in Bosnia and Herzegovina, but also the ongoing readiness of the Republika Srpska authorities to take action challenging the General Framework Agreement is the dispute concerning the 13-digit single citizen identification number. The state law regulating issuance of this number was adopted in 2001, but it needs to be changed owing to rulings of the Bosnia and Herzegovina Constitutional Court in 2011 and early 2013 striking down one provision of the law. Since 2012, three separate proposals to implement the Court's rulings have been rejected by the Bosnia and Herzegovina Parliamentary Assembly due to disputes over geographical registration areas associated with the number. The failure of the Parliamentary Assembly to adopt amendments has since March created serious complications for ordinary citizens with newborn children

[15] "The Constitutional Court attempts to create the Constitution, but the Constitution does not read that property belongs to Bosnia and Herzegovina, but to the entities. Former High Representative Paddy Ashdown has enacted three laws banning the disposal of property, for the Republika Srpska, for the Federation of Bosnia and Herzegovina and for the Brcko District. This here is the issue of unblocking the property, while the Constitutional Court only needs to establish if something is in line with the Constitution or not. In this case it is not competent. The Constitutional Court takes inputs from foreigners. It is a monster serving daily political needs. There are three foreigners at the Court, and two Bosniaks, and they can rule whatever they wish. The Constitutional Court is a place of political rape." Milorad Dodik, *Face TV*, 16 February 2013; "The Prosecutor's Office and the Court of Bosnia and Herzegovina do not exist according to the Constitution of Bosnia and Herzegovina. I do not want to legalize something imposed by the High Representative by being silent about it." Milorad Dodik, *Al Jazeera*, 7 January 2013; "The High Judicial and Prosecutorial Council is an informal centre of power without legitimacy." Milorad Dodik, *TV1*, 28 December 2012; "The High Judicial and Prosecutorial Council is a gravedigger of justice and judiciary in this area." Milorad Dodik, *Hayat*, 28 December 2012; "The Central Election Commission decision on Srebrenica is clearly politically motivated and it was the product of Bosniak members of the Commission. It has nothing to do with reality. It is evident that elections in Srebrenica were speculative." Milorad Dodik, *SRNA*, 28 November 2012; "The Bosnia and Herzegovina Constitutional Court is a criminal place in charge of conducting the constitutional rearrangement of Bosnia and Herzegovina under the influence of foreigners." Milorad Dodik, *AA (Anadolu)*, 16 November 2012; "Foreigners still sit and try to maintain the monopoly over the judicial institutions of Bosnia and Herzegovina." Milorad Dodik, *RTRS*, 2 November 2012; "Courts and Prosecutor's Offices nowadays are the places of the biggest corruption." Milorad Dodik, *RTRS*, 2 November 2012.

and naturalized citizens unable to obtain a number. This has consequences for access to numerous services such as health care and travel documents.

24. Rather than negotiating a solution within the Parliamentary Assembly of Bosnia and Herzegovina, on 2 April, the SNSD party went through the Republika Srpska government to pass a decree seeking to regulate the matter of citizen identification numbers at entity level, while simultaneously announcing that it would ask representatives elected from the Republika Srpska in the state parliament to submit a new proposal to amend the state law. Such a proposal has at the time of writing not been submitted into parliamentary procedure. Given the fact that the single identification number is regulated at state level, the adoption of the Republika Srpska decree is highly problematic insofar as it represents the unilateral assumption of a constitutional responsibility of the state by an entity. The Republika Srpska President has made his views on this matter clear, stating publicly: "We have said that even under the condition of intervention by the international community, this decree will remain in force and be implemented."[16]

Non-enforcement of decisions of the Constitutional Court of Bosnia and Herzegovina

25. An overarching pattern of non-enforcement of decisions of the Constitutional Court of Bosnia and Herzegovina is another issue of concern, including from the perspective of challenges to the General Framework Agreement. On 15 March, in a written reply to a question posed by a representative in the Bosnia and Herzegovina Parliamentary Assembly, the Court reported that it had delivered 80 rulings on non-enforcement of its previous decisions to the Prosecutor's Office of Bosnia and Herzegovina, covering a period from 2005 to 2013.[17] The Constitution of Bosnia and Herzegovina explicitly provides that the "[d]ecisions of the Constitutional Court are final and binding", and that "[t]he Entities and any subdivisions thereof are required to comply fully with this Constitution (...), and with the decisions of the institutions of Bosnia and Herzegovina". This pattern of non-enforcement of Constitutional Court decisions is also of concern given that the role of the Court as final arbiter in constitutional disputes will become even more pronounced after the termination of the mandate of the High Representative.

26. Abiding by the Dayton Agreement and in particular the constitutional framework and the rule of law is a prerequisite for long-term stability. Conversely, given Bosnia and Herzegovina's troubled recent history, challenges to the fundamentals of the Peace Agreement and the Bosnia and Herzegovina Constitution directly undermine the stability of the country and all well-intentioned efforts to re-integrate the country and to move it forward.

[16] Milorad Dodik, *ATV*, 4 April 2013.

[17] The Criminal Code of Bosnia and Herzegovina prescribes a criminal offence and envisions punishment of up to five years' imprisonment for an official who refuses or in any way prevents the enforcement of a Bosnia and Herzegovina Constitutional Court decision. This has not constituted an effective deterrent, and, to date, no one has been convicted on that basis.

III. State-level institutions of Bosnia and Herzegovina

Presidency of Bosnia and Herzegovina

27. The Presidency of Bosnia and Herzegovina held seven regular and four urgent sessions during the reporting period, adopting budgetary, defence and foreign policy decisions. On 29 November 2012, the Presidency adopted the state budget for 2013 and forwarded it to the Parliament, which passed it on 7 December 2012, the first time in two years that the budget was adopted in a timely fashion and without serious breaches of statutory deadlines.

28. The Presidency made decisions on the destruction of defective ammunition and mine ordnance, and extended the Bosnia and Herzegovina Armed Forces' participation in international peace operations in Afghanistan and the Congo. The Presidency hosted a joint visit by the United States Secretary of State, Hillary Clinton, and the European Union High Representative for Foreign Affairs and Security Policy, Catherine Ashton, on 29 and 30 October 2012, and a stopover by NATO Secretary-General Anders Fogh Rasmussen on 7 February 2013. Other visiting dignitaries included the President of Slovakia, Ivan Gašparović, and the Prime Minister of Serbia, Ivica Dačić. Presidency members also travelled to Turkey, Serbia, Romania and Austria. Baroness Ashton met the Presidency members again on 18 April.

29. During the reporting period, the Presidency was chaired by Serb member Nebojša Radmanović, who assumed his eight-month rotating chairmanship on 10 November 2012. Mr. Radmanović has made a number of constructive regional visits and moves during his tenure. It is also a welcome development that, although the members of the Presidency have in the past played out their disputes in the public, they have had no major public disputes during the reporting period. Also of note is that the Bosniak and Croat members of the Presidency launched separate appeals to the Bosnia and Herzegovina Constitutional Court contesting Republika Srpska legislation on holidays and entity constitutional provisions regulating the election of entity presidents and vice-presidents.

Council of Ministers of Bosnia and Herzegovina

30. As part of the SDP-led government restructuring, two new ministers and a deputy minister were confirmed to the Council of Ministers by the Bosnia and Herzegovina House of Representatives on 22 November 2012. The Council of Ministers continued to meet regularly, holding 24 sessions during the reporting period: it adopted one amendment to the Constitution of Bosnia and Herzegovina,[18] six new laws,[19] and 13 sets of amendments to existing laws. In addition, it adopted the budget framework document for 2013-2015, established the previously mentioned Working

[18] The Council of Ministers adopted Amendment II to the Bosnia and Herzegovina Constitution, which changes article IX, paragraph 2, to allow for compensation cuts to office holders in Bosnia and Herzegovina institutions during their mandates.

[19] New laws adopted by the Council of Ministers and forwarded into parliamentary procedure: Law on Refugees, Displaced Persons and Returnees in Bosnia and Herzegovina; Law on the Budget of Bosnia and Herzegovina Institutions and International Obligations of Bosnia and Herzegovina for 2013; Law on Managing Property Seized on a Temporary and Permanent Basis in Criminal Proceedings before the Bosnia and Herzegovina Court; Law on Responsibility for Nuclear Damage; Law on the Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction; and Law on the Witness Protection Programme.

Group on state and defence property, and approved its own ambitious workplan for 2013.[20] The Council of Ministers made several appointments and adopted various by-laws as well as dozens of decisions, including proposals for bilateral agreements and decisions on ratification of international treaties.

31. The Council of Ministers adopted a proposal for amendments to the Census Law at its session on 23 January to postpone the census for six months, to between 1 and 15 October 2013. On another contentious issue — the request for an authentic interpretation of the Election Law in relation to mandates of the Mostar City Council — the Council of Ministers was less forthcoming. On 30 January, it adopted a conclusion drafted by the Bosnia and Herzegovina Justice Ministry to the effect that it could not provide an opinion concerning the mandates of Mostar City councillors, as the disputable provision had not been specified in the request for an authentic interpretation (see section VI below for more details on Mostar).

32. Economic and other challenges posed by the Republic of Croatia's accession to the European Union have understandably continued to be an important point on the agenda of the Council of Ministers. A thematic session on this topic was held on 7 February.

Parliamentary Assembly of Bosnia and Herzegovina

33. A failure to reach political agreements, including by those political parties gathered in the state-level coalition, continues to underlie the work of the Bosnia and Herzegovina Parliamentary Assembly, with parliamentary discourse often less than constructive, and sometimes referring to state dissolution.[21] During the reporting period, only two new laws were adopted: the 2013 Budget Law, and the Law on Political Party Financing. Minor amendments to 15 existing laws were also adopted. During the same period, the Parliamentary Assembly rejected eight laws, of which five failed to pass due to use of the entity voting mechanism by delegates elected from the Republika Srpska. Most of these draft laws were submitted to the Parliamentary Assembly by the Council of Ministers and had passed the appropriate parliamentary committees, only to be rejected in the final round of voting.

34. During the reporting period, the trend continued of delegates elected from the Republika Srpska rejecting the annual work reports of state-level institutions targeted by the Republika Srpska for abolishment. For example, on 17 January the Bosnia and Herzegovina House of Peoples rejected the 2011 report of the High Judicial and Prosecutorial Council, and Bosnia and Herzegovina Radio-Television.

35. These trends have continued despite the fact that a new parliamentary majority was formed at the beginning of the reporting period when SBB replaced SDA as part of the ruling six-party state-level coalition. At this time, the party presidents of SDP and SNSD concluded a cooperation agreement, which proposed numerous changes

[20] The 2013 workplan was adopted on 17 January and it lists 65 pieces of legislation to be adopted during the year (29 of them are "new" laws, while the remaining 36 are amendments to existing legislation).

[21] For example, at the House of Representatives session on 14 February — during the impromptu debate on equality of peoples in Bosnia and Herzegovina — the Deputy Speaker (SNSD) invoked the case of dissolution of Czechoslovakia, whose peoples, in his opinion, had perfectly regulated their positions but simply did not want to live together any longer, and stated that "the critical issue is not whether we in Bosnia and Herzegovina have equal positions, but whether we have the will to preserve this country".

in the fields of the judiciary, the electoral system, conflict of interest, the economy, and public administration. Some of the proposals have raised concerns within the international community, although only one of these laws has been adopted by the Bosnia and Herzegovina Parliamentary Assembly.

Implementation of local election results

36. The implementation of the local election results of October 2012 proceeded without major incident. However, the formation of the Sarajevo City Council and the election of a new mayor of Sarajevo were delayed as they became hotly contested by the SDP and SDA-led coalitions. The City Council was fully established on 12 March while a new mayor was not elected until 27 March. Ivo Komšić is Sarajevo's first non-Bosniak mayor since the signing of the General Framework Agreement and I hope this will contribute to efforts to advance multi-ethnicity.

State constitutional reform

37. Bosnia and Herzegovina's political leaders continued their long-running failure to reach an agreement on constitutional amendments to implement the European Court of Human Rights ruling in the Sejdić-Finci case. Despite generous support provided by the European Union from the middle of February, political party leaders were unable to meet the deadline of 11 April set by the European Union for them to reach a political agreement. As is the case with so many other challenges facing Bosnia and Herzegovina, the time has come for political leaders to stop putting party interests before those of the country and its citizens, the overwhelming majority of whom support Euro-Atlantic integration.

IV. Federation of Bosnia and Herzegovina

Federation government crisis

38. The leading Federation institutions — including the government and the Constitutional Court — were generally hamstrung by an ongoing constitutional crisis in the entity. Efforts by SDP, SBB and the two HDZ parties to reconstruct the Federation government dominated the political scene during the reporting period. These parties formed a majority in both houses of the Federation Parliament, but were unable to achieve their goals of removing both the Federation President and the current majority of ministers (belonging to SDA/NSRzB/HSP) from the Federation government. This situation has been exacerbated by the long-standing failure of the competent institutions to ensure a functioning constitutional system by appointing missing judges to the Constitutional Court of the Federation as well as to its Panel for Protection of Vital National Interests, despite clear and repeated calls from the international community for this to be done.

39. The ongoing disputes in the Federation first intensified in November, when a session of government broke down following a walkout of ministers from SDA, HSP and NSRzB over a contested decision relating to the management of the Federation Development Bank. As a consequence, the government was left without a quorum for decision-making, including on the 2013 Federation budget, the adoption of which prior to the end of the year was among the requirements for the disbursement of International Monetary Fund (IMF) funds. In response, the

Federation Prime Minister proposed that the Federation President remove these ministers from government in December, while the parliamentary caucuses of SDA, HSP and NSRzB sent a joint request for the President to instead remove the Prime Minister over alleged irregularities in the submission of the 2013 budget to the Federation Parliament and in relation to the management of the Federation Development Bank.

40. Early in February, the new majority in both houses of the Federation parliament voted no confidence in the government. At the session on 12 February when the House of Representatives adopted the no-confidence motion, the House also adopted controversial conclusions which sought to unilaterally restrict the activities of the government.[22] The House of Peoples voted no confidence on 15 February, but the Bosniak caucus of the House of Peoples invoked the vital national interest procedure over the decision regarding the vote of no confidence.

41. Until the vital national interest procedure is fully completed, the decision on the vote of no confidence cannot be deemed adopted or in force. The Federation Parliament has formed a joint commission to harmonize the decision of no confidence in the government, a necessary procedural step prior to the request being forwarded to the Vital National Interest Panel of the Federation Constitutional Courts. However, the Panel will not be able to decide on the admissibility or merits of the case until the full component of judges is appointed to the Panel. This means that the no-confidence vote is effectively blocked until the issue of appointing judges is resolved.

42. In the meantime, the Federation Prime Minister wrote to me, claiming that the Federation government was unable to function properly. On 19 March, the Deputy Federation Prime Minister proposed changes to the government's rules of procedure enabling the Deputy Prime Ministers to convene and chair sessions, and to sign acts adopted by the government in cases where the Prime Minister failed to do so within short deadlines. A majority of the government voted for the proposed changes. Following the vote, the Prime Minister and SDP ministers walked out of the session, which continued under the leadership of one of the Deputy Prime Ministers. On 25 March, the Prime Minister informed the Secretary of the Government that following the adoption of the decision of 19 March, he did not intend to convene further government sessions until the constitutionality and legality of that decision, which he subsequently challenged before the court, is resolved.

43. On 26 March, the Ambassadors of the Peace Implementation Council Steering Board noted that neither group of parties in the Federation is without blame for the current situation and warned all those involved that they must refrain from taking

[22] They state that: (1) the Federation government "shall continue to operate with reduced powers, which include the restriction of government operation only to a necessary minimum of activities" regarding "international obligations" and "necessary functioning"; (2) the government "cannot issue decisions and other acts that create additional financial burdens" nor is it to adopt spending programmes or make appointments, without Parliamentary permission; (3) the House of Representatives instructed the Prime Minister to provide a list of positions in the management of public companies, agencies, institutions and institutes whose mandate has expired, so that the House of Representatives could conduct these appointments on an acting basis; (4) the Speaker of the House of Representatives and Federation Prime Minister are charged to monitor the implementation of the said conclusions, reporting to the House; and (5) "publicly urging the Federation President to enable the implementation of the procedure for the appointment of the new Federation government".

any further steps that could destabilize the situation. The Ambassadors reiterated that the relevant authorities needed to fill the vacancies on the Federation Constitutional Court and the Vital National Interest Panel without further delay to ensure the Court's capacity to fulfil its constitutional role. In the statement the Ambassadors went on to warn that "[u]ntil the deadlock in the Federation is resolved, both the government and the Parliament must respect their respective constitutional roles. Parties must work together to ensure the functionality of both institutions in a way that is unambiguously consistent with the rule of law, even if it means that more far-reaching initiatives cannot be undertaken right away. Ensuring the functioning of institutions is not a choice, it is an obligation".

44. I have been using my good offices to bring the parties together in an effort to unblock the impasse relating to the appointment of the judges and also to encourage them to continue to work together to ensure that the government and parliament function on essential issues and that the political situation does not deteriorate further, until such time as the ongoing disputes in the Federation are resolved. Most recently the parties came together on 10 April to hold a session of government where 23 agenda items were discussed, including an important piece of legislation, adopted at the session, necessary for disbursement of funds under the country's standby arrangement with IMF.

Ongoing failure to appoint judges to the Federation Constitutional Court and its Vital National Interest Panel

45. A key underlying structural factor preventing the Federation from resolving its current crisis is the incomplete Federation Constitutional Court, with at present only five of the nine justices in office. The five judges just meet the minimum requirement for a quorum, but since decisions of the Court must be taken by a majority of all nine justices, decisions of the present Court essentially require consensus among all five sitting members. The situation is even more critical with the Court's Vital National Interest Panel, which is currently lacking four of the seven judges needed to function, and which has been incapacitated for over three years. This affects not only the protection of constituent peoples' interests in the Federation, but also decision-making processes within the Federation and cantonal legislatures, and certain city-level assemblies. As a result, certain acts have been blocked indefinitely pending a vital national interest decision.[23] Currently, there is a backlog of 18 vital national interest cases before the Constitutional Court of the Federation, all related to requests submitted by the cantonal legislatures. At least three vital national interest cases are expected to be submitted to the Court from the Federation legislature in the upcoming period. The present situation highlights the serious consequences of the ongoing four-and-a-half-year failure of Federation authorities to appoint the missing judges.[24]

46. My Office and I have been meeting with the competent institutions responsible for ensuring the appointment of the missing judges, in an effort to facilitate an

[23] Under the Constitution of the Federation, "a Vital Interest Panel of the Constitutional Court of the Federation of Bosnia and Herzegovina shall decide by a two-thirds majority within one week on the admissibility of such cases and within one month on the merits of cases held to be admissible".

[24] Once the judges are appointed to the Court, both Houses of the Federation Parliament must elect the four missing members to the Constitutional Court's Council for Protection of Vital National Interests.

agreement allowing for appointments to be made. Thus far, agreement has been reached on appointment of one of the judges, and efforts are ongoing to help the parties reach agreement on the remaining three.

Federation constitutional reform

47. The ongoing crisis in the Federation has not surprisingly increased demands for this entity to be reformed. An initiative to improve the effectiveness of the Federation of Bosnia and Herzegovina, including through changes to this entity's Constitution, was set in motion by the United States Embassy's formation of an expert group to examine the issue. This is a timely initiative, which has my support and which I hope will deliver homegrown solutions to the Federation's problems.

Croat National Assembly

48. The Croat National Assembly (*Hrvatski narodni sabor*), an umbrella organization comprising most political parties with a Croat prefix and dominated by the two HDZ parties, met in Mostar on 6 April and continued to dispute the legitimacy of the current Federation authorities. The Assembly unanimously adopted a seven-point declaration demanding institutional and administrative-territorial equality for all three constituent peoples in Bosnia and Herzegovina; endorsing institutional boycotts and civil disobedience as mechanisms to deal with Croats who sought to usurp Croat positions; advocating a new territorial organization of Bosnia and Herzegovina as a country of three or more federal units; and announcing mechanisms to ensure that Croat representatives follow Croat National Assembly policy.

Views on entity constitutional reform of HDZ Bosnia and Herzegovina

49. The Croatian Democratic Union of Bosnia and Herzegovina has also been setting out its views on constitutional reform for the country as a whole while setting out the party's positions on Federation restructuring. The party's President spoke at 13 venues throughout Bosnia and Herzegovina during February, setting out views which included the suggestion that Bosnia and Herzegovina is not a state because it contains two differently organized territorial units (Federation and Republika Srpska), that the Croat question needs to be resolved if the Bosnia and Herzegovina state is to survive, and calling for territorial equality with Bosniaks and Serbs through a new division into four federal units.

Association of Serb municipalities in the Federation

50. Serb officials from three Federation municipalities in Canton 10 where Serbs constitute a majority of the population — Bosansko Grahovo, Drvar and Glamoč — created the Association of Serb Municipalities as a vehicle for lobbying on Federation reforms. The Association promotes the creation of a Serb-majority canton consisting of Bosanski Petrovac (a Serb-majority municipality in the neighbouring Una-Sana Canton), Bosansko Grahovo, Drvar and Glamoč.

V. Republika Srpska

51. During the reporting period, the institutions of the Republika Srpska functioned far more efficiently than those of the Federation. On 12 March, following protracted discussions within the ruling SNSD about how to tackle the worsening economic and budget crisis, the Republika Srpska National Assembly appointed a new Government, led by Prime Minister Željka Cvijanović, former Republika Srpska Minister of Economic Relations and Regional Cooperation. The change of government went smoothly in sharp contrast with the shambolic situation surrounding the Federation government. Prime Minister Cvijanović heralded further reductions in the Republika Srpska budget, while calling for the financing of Bosnia and Herzegovina institutions to be redefined. The Republika Srpska government reshuffle coincided with a growing economic crisis and strikes in the Republika Srpska public sector. In contrast with the Federation government, the Republika Srpska government has continued to meet regularly as it seeks to tackle the many economic and social challenges it is facing, and it continues to declare its support for European Union integration.

52. However, some Republika Srpska authorities continue to pursue a policy that is — as the Republika Srpska President has frequently acknowledged in public — aimed at rolling back previously agreed steps that have been taken to implement the Peace Agreement, at challenging and undermining state responsibilities under the Constitution of Bosnia and Herzegovina and at transferring state responsibilities to entity institutions. During the reporting period, the Republika Srpska President and others have continued statements against state-level competencies in the judiciary.[25]

Srebrenica

53. The municipal election results in Srebrenica were the last municipal election results to be confirmed in Bosnia and Herzegovina, following court challenges, which were ultimately resolved. Some Republika Srpska-based parties claimed that Bosniak voters had registered residence in Srebrenica without the intention of living there, thereby enabling a Bosniak candidate to be elected mayor. On 11 December 2012, the Appellate Court of Bosnia and Herzegovina rejected an appeal by SNSD and the coalition of the Republika Srpska, freeing the way for the Central Election Commission to certify the election results. The Bosniak independent candidate was confirmed as mayor. Sarajevo-based and Republika Srpska-based parties each won 11 seats in the Municipal Assembly, with 1 seat going to a national minority, whose allegiance is with the Sarajevo-based parties. After constructive discussions, the formation of municipal authorities was completed on 17 January.

54. The contentious issue of a Serbian Orthodox Church being constructed in close proximity to an exhumed mass grave and also not far from the Potocari memorial centre, the resting place of thousands of the victims of the Srebrenica genocide, has come to the fore again. The construction of the church began without the required

[25] "The Republika Srpska is dedicated to respecting the original Dayton Peace Accords and competencies granted to Bosnia and Herzegovina by that agreement. Everything outside of it, which was a result of pressures or which was imposed by the High Representatives, will never get our permanent support through constant intentions to change the Constitution and confirm those competencies. No. Let it be like this and we will return those competencies to the Republika Srpska the first chance we get." Milorad Dodik, *RTRS*, 14 April 2013. See footnote 15 for further examples specifically related to the state-level judiciary.

legal permits two years ago. On 21 January 2013, the Republika Srpska Ministry of Urbanism granted a permit, overturning an earlier denial of permit by the municipality. The Mayor subsequently wrote to the Congress of Local and Regional Authorities of the Council of Europe, arguing that the Ministry, in overturning an earlier decision by the municipality, had violated the principles of local self-government. While the construction of a church is in itself not contentious, the choice of this particular site has been seen as a provocation. Therefore efforts heretofore aimed at finding a solution more conducive to reconciliation have focused on finding a more appropriate site in the municipality for the church to be built. Regrettably, construction works on the church close to the Potocari memorial resumed on 16 April. The Organizational Board for the annual commemoration of the Srebrenica genocide has written to the Peace Implementation Council Steering Board, warning of its intention to postpone commemorations planned for 11 July if construction on the church is not halted, citing security concerns among other factors.

55. I remain concerned by the continuing rhetoric of senior Republika Srpska officials that genocide was not committed in Srebrenica in 1995, despite rulings by both the International Court of Justice and the International Tribunal for the Former Yugoslavia confirming this. The Republika Srpska President has been particularly vocal in this regard.[26]

56. By contrast, and as reported above, the President of Serbia, Tomislav Nikolić, has made a highly publicized apology for any crimes committed by any individual in the name of the Serbian state or the Serbian people, including crimes committed at Srebrenica. For the record, I wish to state that I wholeheartedly commend and welcome President Nikolić's courageous and historic statement and its undeniable contribution to reconciliation in the region.

Special parallel relations

57. I have noted that the Republika Srpska government has made public a number of legal acts between Serbia and the Republika Srpska under the Special Parallel Relations Agreement after a long-standing request by my Office to do so. This is a welcome development and I will continue to encourage the Republika Srpska authorities to work closely with the state-level authorities when addressing issues under the Special Parallel Relations Agreement and to ensure that the constitutional mechanisms to ensure that this Agreement complies with the Constitution of Bosnia and Herzegovina can be used effectively.

[26] "We, who live here, must not forget and accept lightly either the qualification of genocide in Srebrenica or genocide at all, or any story about a joint criminal enterprise, and we should carry on the struggle." Milorad Dodik, *SRNA*, 14 April 2013; "Neither Republika Srpska nor Bosnia and Herzegovina are on trial in The Hague, nor can verdicts in those trials have any outcome. They can have only a speculative outcome. Just as there has been an attempt to impose the talk about genocide on the Republika Srpska and the Serb people, which did not occur and we say that publicly and we do not want to accept it." Milorad Dodik, *B92 TV*, 15 October 2012; "There are ongoing efforts to portray the Republika Srpska as genocidal. In order for it to be proclaimed as genocidal, there should be those from our side who would confirm it. Luckily, there is no [former Republika Srpska President] Dragan Čavić any more to say he is ready to sign a shameful report, forged report, on 8,000 killed persons in Srebrenica. Čavić should apologize to the Serb people for signing such a report." Milorad Dodik, *RTRS*, 15 April 2013.

VI. The Office of the High Representative facilitates the Mostar process

58. The failure so far of local institutions to implement the decision of November 2010 of the Bosnia and Herzegovina Constitutional Court on Mostar's electoral system represents a violation of the Dayton Agreement, whose annex 4 explicitly states that "[d]ecisions of the Constitutional Court shall be final and binding". Earlier local efforts — including within the Parliamentary Assembly and in the Mostar City Council — to implement the Court's decision failed. As a result, the Central Election Commission was unable to call elections in Mostar last October, depriving Mostarians of the right to participate in the democratic process alongside their compatriots in other municipalities throughout Bosnia and Herzegovina.

59. In the legal vacuum that has resulted, local politicians have pursued legally controversial measures that they have justified by reference to the exceptional situation in Mostar. Simultaneously, domestic institutions with responsibility in these areas have assiduously avoided making rulings that would provide legal clarity. For instance, in an unprecedented move, the Mostar City Council adopted a decision on 3 November 2012 — the day before expiry of the four-year terms set out in the Bosnia and Herzegovina Election Law — extending councillors' mandates "until such time as new councillors of the City Council and the Mayor of the City of Mostar are elected or unless a higher competent authority establishes a different situation and position of local authorities in the City of Mostar". In response, I wrote to all councillors highlighting potentially problematic issues arising from their move and asking them to refrain from taking any decisions until the issue of their mandates was resolved by the relevant institutions. Since then, a rump City Council without a single Croat councillor has twice adopted a decision on temporary financing for the first three months in 2013, decisions which the caretaker mayor, a Croat from HDZ Bosnia and Herzegovina, has challenged, setting in train a legal process at the Federation Constitutional Court. Subsequently, the acting mayor controversially proclaimed a budget despite procedural irregularities on 8 April in a move that has been legally challenged. The lack of a budget has generated great hardship for many, including the most vulnerable, whose services the city has been unable to finance. It has also had a negative ripple impact on the wider economy as people have been obliged to reduce spending. I have been especially concerned about the implications for frontline services such as firefighting and provision of food in soup kitchens that feed many of the city's poverty-stricken citizens.

60. Neither the Central Election Commission nor the Constitutional Court has been able to make a definitive ruling on the mandates of Mostar's councillors. Meanwhile, the Bosnia and Herzegovina Parliamentary Assembly has to date failed to provide a definitive response to a request on 12 December 2012 from the Mostar City Council Secretary for an authentic interpretation of the Election Law in relation to councillors' mandates.

61. The political and legal vacuum in Mostar is contributing to rising tensions. Statements from politicians and public figures and the reporting of politically controlled media are exacerbating the situation, rather than defusing it, and there have been a number of troubling security incidents.

62. My Office launched on 16 October a multiparty facilitation process to seek agreement on a way to implement the ruling of the Constitutional Court[27] on Mostar that ensures respect for the rule of law and enables local elections to take place. To date, we have held more than 100 separate meetings and two plenary sessions with the parties. Most of the parties in the process — all of which are represented in the Bosnia and Herzegovina Parliamentary Assembly where amendments to the Election Law will be adopted — have demonstrated the desire to compromise. However, the two parties that have dominated Mostar politics for the past 20 years — HDZ Bosnia and Herzegovina and SDA — have refused to budge from their mutually exclusive positions, positions which do not appear to have the capacity to win the necessary support in the institutions of Bosnia and Herzegovina. I have kept the Peace Implementation Council Steering Board fully informed of developments in these negotiations, and the Steering Board and I continue to believe that there are reasonable compromises available if local politicians — especially HDZ and SDA — show the political wisdom and courage to accept them. Otherwise, these two parties will continue to bear the lion's share of the responsibility for the crisis in the city and for the continuing Dayton violation.

VII. Entrenching the rule of law

63. The Structured Dialogue on Justice launched by the European Union with the authorities in Bosnia and Herzegovina, which I have welcomed strongly, continues to offer domestic politicians a forum in which to discuss their concerns about the judiciary in Bosnia and Herzegovina. My Office continues to follow developments in the judicial field, including the issue of division of competencies between the state and the entities, given the prominence of this core component of the General Framework Agreement.

64. Several issues are of special importance for implementing civilian aspects of the peace settlement and the division of competencies between the state of Bosnia and Herzegovina and its entities under the Bosnia and Herzegovina Constitution. These are legal discussions about the competencies of the state of Bosnia and Herzegovina in criminal matters; changes in the functioning of the Court of Bosnia and Herzegovina and a legal framework for the establishment of the Appellate Court of Bosnia and Herzegovina; amendments to the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina; international cooperation on war crimes prosecution; and implementation of the War Crimes Prosecution Strategy.

[27] The Bosnia and Herzegovina Constitutional Court ruled in November 2010 that certain provisions of the Bosnia and Herzegovina Election Law pertaining to the Mostar electoral system were unconstitutional, in response to a challenge by the Croat caucus in the Bosnia and Herzegovina House of Peoples. The Court's ruling addressed two areas: (1) the large differences in the number of voters required to elect councillors to the City Council between Mostar's six city areas; and (2) the discriminatory treatment of voters in Mostar's central zone who, unlike voters elsewhere in Mostar, elect councillors only from a citywide list and not from a geographical voting district. The Constitutional Court gave the Parliamentary Assembly six months to correct the relevant provisions in the Election Law. After the deadline passed without action, the Constitutional Court issued a supplementary ruling on 18 January 2012 repealing the provisions of the Election Law that it had previously deemed unconstitutional. As a result of these deletions, the Election Law currently provides for the election of only 17 councillors in citywide elections whereas the Mostar City statute foresees 35 councillors.

Justice sector reform strategy

65. The current justice sector reform strategy in Bosnia and Herzegovina, which initially was planned for the period of 2008-2012, was extended through 2013 and on 5 February the ninth conference of all ministers of justice adopted the Fourth Revised Action Plan for Implementation of the Justice Sector Reform Strategy. The extension gives authorities more time to develop a new strategy, expected to cover the next four-year period of 2014 to 2018.

War crimes prosecution strategy

66. The Steering Board for the Implementation of the National War Crimes Prosecution Strategy met on a regular basis and reports regularly to the Council of Ministers. The aims laid out in the Strategy — to have the most complex cases dealt with by 2015 and the less complex by 2023 — are unlikely to be met. While there is satisfaction with the rate of transfer of war crimes cases from state to entity jurisdictions, there needs to be an improvement in the processing of these cases by the entity jurisdictions. Internationally funded projects started in March 2013 to work with entity-level courts and prosecutors' offices to enhance their capacity to deal with these cases.

67. On 31 December 2012, the presence of international judges, prosecutors and investigators at the Court and Prosecutor's Office of Bosnia and Herzegovina ended. I would like to pay a tribute to their efforts and contributions to the development of the judiciary in Bosnia and Herzegovina. There were some concerns that their departure would hinder the continuity in war crimes trials and investigations, especially those concerning the Srebrenica area. I have communicated those concerns to the Prosecutor's Office of Bosnia and Herzegovina and will continue to follow this issue closely.

68. On 31 January, a Protocol between the War Crimes Prosecutor's Office of Serbia and the Prosecutor's Office of Bosnia and Herzegovina on the exchange of evidence and information in war crime cases was signed in Brussels. The Prosecutor's Office of Bosnia and Herzegovina is currently conducting discussions with the State Attorney's Office of Croatia, to try to conclude a similar protocol.

VIII. Public security and law enforcement

69. I remain concerned about the readiness of some cantonal authorities to consider action that would roll back the hard-won progress that has been made to ensure operational policing that is free from political interference. On 14 December 2012, the Tuzla Canton Government adopted amendments to the Law on Internal Affairs prescribing, inter alia, the removal of the entire Independent Board, a body responsible for overseeing the work of the Tuzla Canton Police Commissioner. The internal affairs legislation in the canton does not foresee this possibility. On 21 December 2012, the Tuzla Canton Government withdrew the proposed amendments from the agenda of the Tuzla Canton Assembly following the involvement of my Office, the European Union Special Representative, and the International Criminal Investigative Training Assistance Programme (ICITAP) of the United States Department of Justice.

70. On 23 January, the Directors of the state-level police agencies received draft amendments to the Bosnia and Herzegovina Law on Police Officials prepared by a multi-agency working group with the participation of my Office and ICITAP. At the beginning of April, a working group led by the Bosnia and Herzegovina Ministry of Security finalized the proposed amendments and forwarded the package to the Minister of Security. The working group proposal did not appear to affect compliance of Bosnia and Herzegovina with the 2007 letter from the President of the Security Council on persons denied certification by the International Police Task Force. Representatives of the Office of the High Representative, the European Union Special Representative and ICITAP attended the meeting.

IX. Cooperation with the International Tribunal for the Former Yugoslavia

71. During the reporting period, cooperation with the International Tribunal for the Former Yugoslavia remained satisfactory. In his latest report to the Security Council, the Prosecutor of the Tribunal, Serge Brammertz, expressed his concerns about delays in processing war crimes at the Bosnia and Herzegovina level. Cautiously positive about the transfer of cases from the state-level to the entity-level jurisdictions, it was noted that the entity levels already deal with a backlog of cases, and that, in parallel to the transfer, measures must be taken to improve the capacity of the entity jurisdictions to deal with the improved caseload.

72. The Tribunal Appeals Chamber's reversal of convictions and acquittal of Ante Gotovina and Mladen Markač for crimes against humanity in Croatia on 12 November 2012 provoked negative reactions in the Republika Srpska. On 1 December, the Main Board of the Serb Democratic Party (SDS) called upon the Republika Srpska National Assembly to adopt a resolution condemning the Tribunal as an anti-Serb institution and asked the Republika Srpska President, Milorad Dodik, and the Republika Srpska government to provide assistance to indictees Radovan Karadžić, Ratko Mladić and other Serbs, in the same manner as Croatia has done for is indictees. On 9 April, President Dodik appeared as a witness for the defence in the Karadžić case. In his testimony he asserted that "Mr. Karadžić never insisted on the commission of any crimes ... but actually ... tried to find a way to resolve the conflict peacefully". This runs counter to earlier statements Dodik made in 2001, when he stated that "it must be openly said that crimes were committed under SDS leadership". When confronted with this earlier statement by the Prosecutor, Dodik dismissed it as campaign rhetoric.

73. The Tribunal rendered other verdicts during the reporting period. These included the conviction on 12 December 2012 of Zdravko Tolimir, who was found guilty of genocide, conspiracy to commit genocide and crimes against humanity, and sentenced to life imprisonment; the acquittal on 28 February 2013 of Momcilo Perišić for crimes against humanity in Sarajevo, Srebrenica and Zagreb, for which he was sentenced in a first instance trial to 27 years; and the conviction on 27 March of Mico Stanišić and Stojan Župljanin to 22 years' imprisonment for crimes against humanity and war crimes committed in Bosnia and Herzegovina between April and December 1992.

X. Economy

74. The Directorate for Economic Planning of the Bosnia and Herzegovina Council of Ministers noted a continued weakening of the economy of Bosnia and Herzegovina in 2012.[28] Accordingly, there was a decrease in exports, imports and industrial production, and an increase in the foreign trade deficit and unemployment. On the positive side, foreign direct investments saw a slight recovery from 2011, with a 0.5 per cent increase.[29] A number of private companies are, however, fighting successfully against the prevailing trends.

75. The Law on the Budget of Bosnia and Herzegovina Institutions and International Obligations of Bosnia and Herzegovina for 2013 was adopted on 6 December 2012 in the amount of KM 1.73 billion.[30] The opposition argued that deadlines and procedures in the course of the budget adoption had been violated, some parties also expressing concern that the budget was insufficient to ensure the full functioning of state-level institutions.

76. The budget of the Republika Srpska for 2013 was adopted on 4 December 2012 in the amount of KM 1.945 billion, an overall 7 per cent increase over the 2012 rebalanced budget. The budget of the Federation of Bosnia and Herzegovina for 2013 was also adopted on 4 December 2012 and it amounts to KM 2.214 billion, an overall increase of 11.1 per cent over the 2012 rebalanced budget. Although both entity budgets displayed some restraint, fiscal pressures remain. Domestic revenues are currently either at or below 2012 levels and disbursements by international financial institutions, such as IMF, have been delayed, primarily due to disputes over the adoption of a new Federation Law on Privileged Pensions, which was finally accomplished on 18 April.[31]

---

[28] Bosnia and Herzegovina Directorate for Economic Planning, Report on Macroeconomic Indicators for the Period January-December 2012 (February 2013).

[29] Revised data of the Bosnia and Herzegovina Ministry of Foreign Trade and Economic Relations, Bosnia and Herzegovina Directorate for Economic Planning, Report on Macroeconomic Indicators for the Period January-December 2012 (February 2013).

[30] The amount foreseen for financing state-level institutions is KM 950 million, of which KM 750 million will come from indirect tax revenue. Both amounts are at the 2012 level and, pursuant to the Bosnia and Herzegovina Fiscal Council's agreement of 15 June 2012 on the Global Framework of Fiscal Balance and Policies in Bosnia and Herzegovina for the period 2013-2015, will not increase until 2015. At the same time, there is a 77 per cent increase in the amount envisaged for servicing the foreign debt in 2013.

[31] Following the approval on 26 September 2012 by the Executive Board of the International Monetary Fund of a 24-month standby arrangement for Bosnia and Herzegovina in the total amount of around €400 million and the initial disbursement of €60.8 million, the IMF Executive Board completed the first review of Bosnia and Herzegovina's performance under the standby arrangement on 19 December 2012 and allowed for the disbursement of additional €58.9 million. The Board's decision is a result of the timely adoption of 2013 budgets at the state and entity levels. The next disbursements under the standby arrangement are conditional on further reforms, the key requirement for the next disbursement being the adoption of a single, comprehensive and fiscally more sustainable law on favourable retirement of war veterans in the Federation of Bosnia and Herzegovina. After being withdrawn from the parliamentary procedure on 28 March due to disputes over substantive and procedural matters and following additional consultations, the contentious Law was revised and again adopted by the Federation government on 10 April and then adopted by Parliament on 18 April.

XI. Return of refugees and displaced persons

77. In January 2013, the Bosnia and Herzegovina Council of Ministers, with the assistance of the Office of the United Nations High Commissioner for Refugees, secured a loan of €60 million from the Council of Europe Development Bank (CEB) to fund durable housing solutions for the remaining 8,600 collective centre residents in the country. Implementation of the Regional Housing Project commenced early in 2013. In line with the Revised Strategy of Bosnia and Herzegovina for the Implementation of Annex 7 of the Dayton Peace Agreement, the Regional Housing Project and the CEB loan project will facilitate housing for some 21,000 refugees, returning refugees, and internally displaced persons. The State Commission for Refugees, the main annex 7 coordination body in-country, started meeting again during the reporting period, after 18 months in which no sessions were called. I welcome this long-overdue return to work because annex 7 has not yet been fully implemented. It is hoped that the Regional Housing Project and the CEB programme will serve as a catalyst for national actors to address the needs of displaced persons in Bosnia and Herzegovina in a more coordinated way. On 18 April, a new state-level law on refugees and displaced persons, which has been many months in the drafting, was rejected by the Bosnia and Herzegovina House of Representatives due to opposition from the Republika Srpska-based parties and SDA.

XII. Media development

78. Progress previously made in the media sector is being rolled back on a number of fronts. Amendments to the State-level Law on Communications adopted in December 2012, aimed at addressing the long-overdue appointment of the governing body of the Communications Regulatory Agency, have so far neither unblocked the process nor made it transparent. On 18 April all members of the six-person ad hoc committee were finally approved, opening the way for appointments to the Agency's governing body to be made.

79. On 11 January, the Bosnia and Herzegovina Council of Ministers adopted proposed amendments to the Law on the Public Radio and Television System of Bosnia and Herzegovina that did not have the support of the competent minister. The amendments seek to introduce a Croat channel as a fourth channel within the public broadcasting system. To date these amendments have not been considered by the Bosnia and Herzegovina Parliamentary Assembly. Overall, the implementation of the public broadcasting system has been stagnant for some time with financing a major problem. Not least because of this, the issue of how or why such a national-language channel should be established at public expense when all public broadcasters within the system are obliged to broadcast programmes equally in all three official languages of Bosnia and Herzegovina is clearly a concern.

80. On 19 March 2013, Radio Televizija Republike Srpske (RTRS) began an experimental digital-terrestrial broadcast without the prior approval of the state-level Communications Regulatory Agency, which allocates broadcast frequencies. Despite several requests by the Agency, RTRS did not stop its illegal broadcast until 17 April. The readiness of RTRS to take unilateral action of this kind outside the established regulatory framework for a second time is of real concern.

XIII. Defence matters

81. I am pleased to report that the entity-based initiative of the Republika Srpska President in October to abolish the Bosnia and Herzegovina Armed Forces (see my previous report) has failed to gain serious political traction. Instead the issue of pensions for retired soldiers has continued to cause the most tensions, in this case in the Federation (see section X above for more details).

82. Late in March, the Republika Srpska National Assembly adopted the Law on Exercising the Right to Old Age Pension by Professional Military Personnel of the Armed Forces of Bosnia and Herzegovina coming from the Republika Srpska, which allows officers and non-commissioned officers of the Armed Forces of Bosnia and Herzegovina recruited from the territory of the Republika Srpska who have also served in the former Republika Srpska Army to receive a pension from the Republika Srpska budget immediately upon retirement from military service, provided that they have 30 years of qualifying service, until such time as they qualify for old age pension provisions under the Republika Srpska Pension and Disability Fund. The Law will not cover discharged soldiers released at the age of 35 and failing to attain promotion past a certain rank. With the Law in place a number of Bosnian Serbs may seek retirement from the Bosnia and Herzegovina Armed Forces as many of them have been waiting for this development.

83. The new Chief of the Bosnia and Herzegovina Armed Forces Joint Staff is Lieutenant General Ante Jeleč, who was appointed on 28 February. This is the first time a Bosnian Croat has been appointed to this position, following the previous appointments of a Bosniak and a Serb.

XIV. Intelligence reform

84. On 21 March, the Bosnia and Herzegovina Minister of Defence and the Director General of the Bosnia and Herzegovina Intelligence Security Agency signed an agreement on cooperation in the area of military intelligence. The Agreement envisaged by the 2005 Bosnia and Herzegovina Law on Defence replaces the existing agreement signed in January 2006. The new agreement should significantly advance cooperation between the Ministry of Defence and the Intelligence Security Agency, particularly in the area of preparations for and participation in peace support operations, as well as improving the protection of defence installations in Bosnia and Herzegovina. This in turn should remove purported justifications for the return of some competencies to the Ministry of Defence that were placed by law under the Agency in 2004. The Agreement was prepared by a working group chaired by my Office and included representatives from the Bosnia and Herzegovina Ministry of Defence, the Bosnia and Herzegovina Armed Forces and the Agency, assisted by advisers from NATO, the Organization for Security and Cooperation in Europe, and the Norwegian Institute of International Affairs.

XV. European Union military force

85. On 14 November 2012, the Security Council adopted resolution 2074 (2012) extending the executive mandate of the European Union military mission in Bosnia

and Herzegovina (EUFOR) for another year. The force now stands at 600 personnel mainly based in Sarajevo, but including liaison and observation teams present in other parts of the country.

86. EUFOR continues to play a key role in maintaining a safe and secure environment and is assisting the Bosnia and Herzegovina authorities in improving the country's management and disposal of surplus arms and ammunition. As such, EUFOR remains a vital factor of stability in Bosnia and Herzegovina. Given the negative trends described earlier in this report, I consider it imperative to retain an executive military mandate operating under annexes 1-A and 2 to the General Framework Agreement and to provide critical reassurance to citizens.

XVI. Future of the Office of the High Representative

87. The Steering Board of the Peace Implementation Council met at the level of political directors on 29 and 30 November 2012, again expressing its concern about the situation in the country and the ongoing failure to address the remaining objectives and conditions for the closure of the Office of the High Representative. The next meeting of the Steering Board is scheduled for 22 and 23 May 2013.

88. As in previous years, my Office continues its responsible efforts to cut overhead costs as a response to the global fiscal crisis and the impact felt by our contributing States. Our efforts will be reflected as savings in our budget proposal for 2013-2014. Since the beginning of my mandate the budget of the Office has been reduced by almost 40 per cent and my staff by more than 49 per cent. It now, more than ever, remains essential that I be equipped with the budget and staff required to carry out my mandate effectively.

XVII. Reporting schedule

89. In keeping with the proposals of my predecessor to submit regular reports for onward transmission to the Security Council, as required by Security Council resolution 1031 (1995), I herewith present my ninth regular report. Should the Secretary-General or any Security Council member require information at any other time, I would be pleased to provide an additional written update. The next regular report to the Secretary-General is scheduled for November 2013.